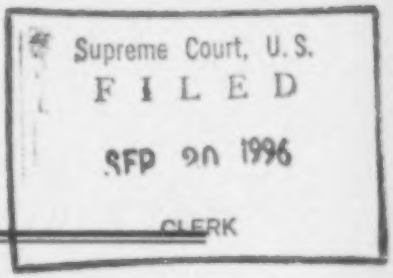

No. 96-146

IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

JAMES R. KING,

Appellant,

v.

STATE BOARD OF ELECTIONS, *et al.*,

Appellees,

BOBBY RUSH, TIMUEL BLACK, AL JOHNSON, ELVIRA CARRIZALES, NEOMI HERNANDEZ AND THE CHICAGO URBAN LEAGUE,

Defendant-Intervenors.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

DEFENDANT-INTERVENORS' MOTION TO AFFIRM

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

DEFENDANT-INTERVENORS' MOTION TO AFFIRM

Defendant-Intervenors hereby move to affirm the judgment sought to be reviewed on the ground that it is evident that the questions raised by appellant in his Jurisdictional Statement are so unsubstantial as not to need any further argument. The decision entered on the merits below is based on law established by this Court, and there is no conflict which requires this Court's resolution.

STATEMENT OF THE CASE

Appellant's statement of the case is replete with misstatements and incomplete recitations of the underlying

facts. As a result, the statement of the case requires clarification.

This case involves a challenge to a 1991 court-ordered remedial plan which was designed to remedy proven past and present discrimination against Hispanics and African Americans in and around the City of Chicago. The plan at issue was created by a three-judge panel sitting in the case of *Hastert v. State Board of Elections,* 777 F. Supp. 634, 637 (N.D. Ill. 1991). The *Hastert* court preserved three existing African American majority districts and created the first Hispanic-majority congressional district (the Fourth Congressional District) in Illinois thereby affording a majority of the 545,852 Hispanics in Chicago the ability to elect a congressional candidate of their choice for the very first time.

Following this Court's pronouncement in *Shaw v. Reno (Shaw I)*, ___ U.S. ___, 113 S. Ct. 2816 (1993), the plaintiff in this action filed a lawsuit under the Equal Protection Clause of the Fourteenth Amendment challenging the constitutionality of the Fourth Congressional District.[1] Plaintiff King alleged that the court-ordered plan was drawn predominately on the basis of race and without compelling justification. After a trial, on March 15, 1996, the three-judge district court issued an opinion and order holding that the 1991 court-ordered Fourth Congressional District passed constitutional muster. In so holding, the three-judge court applied this Court's rulings in *Shaw I* and *Miller v. Johnson,* 515 U.S. ___, 115 S. Ct. 2475 (1995), and found that: (1) the Fourth Congressional District was "bizarrely" shaped; (2) racial considerations predominated in the drafting of the district; (3) the *Hastert* court properly found the existence of the *Gingles* preconditions in determining a violation of

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[1] Initially, plaintiffs also sought to challenge the constitutionality of the African American majority First Congressional District. However, early on in the litigation plaintiffs voluntarily dismissed this claim. J.S. App. at 3 n.3.

Section 2; (4) the existence of the *Gingles* preconditions remained in effect at the time of trial; (5) remedying a Section 2 violation is a compelling state interest; and (6) the court-ordered Fourth Congressional District is narrowly tailored. Plaintiff King appealed the decision to this Court.

A. The Fourth Congressional District.

As of 1991, the Fourth Congressional District has a population of 571,530 persons. Hispanics account for 65% of the total population and 59% of the voting age population. Over 95% of the population of the Fourth Congressional District is located in two core areas, on the northside and southside of the district. *King*, J.S. App. at 53 n.49. The remaining 4.7% of the total population is located in the "western connector" which wraps around the African American majority Seventh Congressional District. *Id.* The "western connector" was the result of an effort to avoid clear retrogression in the African American majority districts, thereby preserving the three existing African American districts mandated by the Voting Rights Act. *See, Hastert*, 777 F. Supp. at 650.

The "western connector" contains primarily vacant and unpopulated land. *King*, J.S. App. at 53 n.49. The Fourth Congressional District is the geographically smallest of any of the 1991 Illinois congressional districts. J.S. App. at 102. At its longest points, the Fourth Congressional District measures only 16 miles in width and 14 miles in length. D.I. App. at 1.[2]

B. The *Hastert* Decision.

In order to properly understand the insufficiency of the issues raised in King's Jurisdictional Statement, it is important to recount the history of the *Hastert* decision,

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[2] Hereinafter "D.I. App. at __" refers to the Appendix to Defendant-Intervenors' Motion to Affirm filed herewith.

which formed the basis for the *King* court's decision upholding the Fourth Congressional District.

The three-judge panel in *Hastert* was convened after the legislature of the State of Illinois failed to pass a reapportionment plan following the release of the 1990 census. The 1990 census revealed that the State of Illinois had lost two of its twenty-two seats in the House of Representatives. *Hastert v. State Board of Elections*, 777 F. Supp. 634, 637 (N.D. Ill. 1991). As a result, lawsuits were filed in federal court seeking to declare the then-current reapportionment plan, which was based on 1980 census data, to be unconstitutional and in violation of Section 2 of the Voting Rights Act. *Id.*[3]

During a two day trial, the *Hastert* court ordered that the parties "submit their evidence in the form of affidavits and depositions, supplemented by any maps and statistical data ... ." *Hastert*, 777 F. Supp. at 639-40. Each party was able to submit one proposed reapportionment plan to the court for consideration. As part of this process, the parties were able to reach stipulations on a number of factual matters including a stipulation that "the population and demographic changes within the City of Chicago from 1980 to 1990 mandated the creation of an Hispanic majority

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[3] Five lawsuits were filed. Members of the Republican Party filed the original lawsuit. Later, Hispanic residents and African-American residents filed a second lawsuit. The third lawsuit was filed by a group representing the Democratic Party. Representative Cardiss Collins, the incumbent congressman of the Seventh Congressional District, filed the fourth lawsuit, and the fifth lawsuit was filed by the Chicago Urban League on behalf of voters residing in the then-existing majority African-American districts. The court consolidated all five lawsuits for trial.

district." The parties also ultimately submitted two proposed Hispanic majority configurations for the court's review.[4]

Although the parties stipulated to the creation of a Hispanic majority district, the *Hastert* court nonetheless undertook a thorough review of the evidence to determine whether the proposed plans were a legal remedy to a Section 2 violation. *Hastert*, 777 F. Supp. at 640. The proposed plans submitted by the parties were almost identical with respect to the proposed majority Hispanic district: two dense Hispanic population concentration areas in the City of Chicago located north and south were linked together via a western connector that was substantially unpopulated. *Hastert*, 777 F. Supp. at 646. The *Hastert* court assessed the proposed plans both under federal constitutional standards and Section 2 of the Voting Rights Act. *Id.* at 640.

1. The *Hastert* Court's Constitutional Analysis.

The *Hastert* court found that the proposed plans adhered to the "one person, one vote" principle. *Hastert*, 777 F. Supp. at 644. The plans were also evaluated to determine whether either had the discriminatory effect of diluting minority voting strength. *Id.* at 645. The *Hastert* court also examined the partisan political fairness of the proposed plans. The court found that the court-ordered plan was "politically fair." *Id.* at 659.

2. The *Hastert* Court's Section 2 Determination.

Applying the three preconditions articulated in *Thornburg v. Gingles*, 478 U.S. 30, 50-51, 106 S. Ct. 2752, 2766 (1986), the three-judge panel of the *Hastert* court

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[4] Initially, given the "significant political ramification of the creation of an Hispanic district," several "radically different" configurations for an Latino district were originally proposed. However, before trial the parties had agreed on the general configuration of the Latino majority district. *Id.* at 640.

reviewed the evidence submitted in the case and made a number of factual determinations. The *Hastert* court concluded that the Hispanic community was sufficiently large and geographically compact to constitute a majority in a single district. *Hastert*, 777 F. Supp. at 649. The 1990 census figures revealed that the Hispanic population in the City of Chicago increased by 29% to 545,852 and the Hispanic population in Cook County increased by 39% to 694,194. The court found that the Hispanic population in Chicago is located in two "highly concentrated" enclaves between which runs the Seventh Congressional District, an African-American majority district. *Id.* at 648-49.

The court determined that the two enclaves of Hispanic population did not indicate separate communities, but they "appear[ed] to have occurred as a result of exogenous physical and institutional barriers." *Hastert*, 777 F. Supp. at 649. These exogenous barriers include an expressway as well as "expanses of land developed by the University of Illinois-Chicago Circle and various other medical institutions" which cut through the two Hispanic enclaves. *Hastert*, 777 F. Supp. at 648-49. Furthermore, the two enclaves were approximately one mile apart at their closest point. *Id.*, *see also* D.I. App. at 1.

The *Hastert* court ruled that the Hispanic community is politically cohesive. *Hastert*, 777 F. Supp. at 650. Although the court did note that prior judicial decisions found that the Hispanic communit, was politically cohesive, the court did not base their conclusion solely on this fact.[5] The *Hastert*

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[5] King erroneously asserts that the *Hastert* court relied solely on prior judicial decisions to support its findings of past discrimination against Hispanics. J.S. at 23-25. King ignores the true relevant facts. On the issue of the *Gingles* preconditions, the *Hastert* court relied upon the evidence submitted at trial which consisted of ecological regression statistical data demonstrating white bloc voting and Hispanic

(continued...)

court had before it affidavits from members of the Hispanic community in Chicago and a sociologist describing actual shared interests among the Hispanic community in Chicago. *Hastert*, 777 F. Supp. at 649.

The court also reviewed statistical evidence of racial bloc voting patterns in Chicago and determined that "ethnic bloc voting patterns have thwarted the political interests of the Hispanic community." *Id.* at 650. Lastly, the court found that the history of past and present discrimination against the Hispanic community in Chicago had an attendant impact on effective political participation and representation. *Id.*

The *Hastert* court considered the shape of the district in determining whether Section 2 of the Voting Rights Act required as a remedial measure the creation of the Fourth Congressional District. The *Hastert* court remarked that because the proposed Hispanic district was an "extraordinary configuration," the court would not agree to the remedial measure without carefully scrutinizing the proposed district. *Hastert*, 777 F. Supp. at 648.

Ultimately, the *Hastert* court determined that the Fourth Congressional District's shape was necessary to counteract the effects of white bloc voting and was required to remedy the vote dilution of Hispanics in the affected area while also protecting the three African American majority districts against impermissible retrogression. *Id.* at 662.

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[5](...continued)
cohesion. *Hastert*, 777 F. Supp. at 650. In further support of this, the court noted a history of Hispanic vote dilution in Chicago as set out in prior judicial decisions. *Id.* And in the *King* trial, there was clear statistical evidence of vote dilution in the Hispanic community. *King*, J.S. App. at 63-64. Moreover, because King declined to put on any evidence below concerning the *Hastert* "totality of the circumstances" findings, he can argue no error on this point. *Id.* at 64-65.

C. The *King* Court's Decision.

On December 13-15, 1995 a three day trial was held on this matter. At trial, the parties presented evidence that had been previously admitted in the *Hastert* litigation. The parties put on witnesses that addressed the three *Gingles* preconditions, including statistical data on voting patterns in the City of Chicago up to and including elections in 1995. All parties were able to fully argue and brief their respective positions to the court. After trial, on March 15, 1996, the three-judge panel issued a written decision upholding the constitutionality of the Fourth Congressional District.

1. The *King* Court's Application of Strict Scrutiny to the *Hastert* Court's Plan.

In applying this Court's rulings in *Shaw* and *Miller*, the *King* court subjected the *Hastert* court's Fourth Congressional District to strict scrutiny. *King*, J.S. App. at 57. Recognizing that the case was in a unique posture since it was a challenge to the determination made by a three-judge panel in the *Hastert* case, on December 13, 1995 the *King* court determined that it would take judicial notice of the findings of fact of the *Hastert* court.[6] The court further ruled that the *Hastert* evidence was conditionally admitted at trial for purposes of showing what evidence was relied upon by the *Hastert* court. *King*, J.S. App. at 15. In deciding to take judicial notice of the *Hastert* findings, the *King* court stated that it would adopt those findings as conclusive unless King showed that the *Hastert* court erred, by law or otherwise, in making the specific findings or that changed circumstances existed since November 1991 such that the findings of the *Hastert* court were no longer valid. *King*, J.S. App. at 15-19.

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[6] Consistent with Seventh Circuit precedent, the lower court ruled that due to the unique nature of the case and the need to expedite matters for trial, judicial notice of the *Hastert* findings would be taken. *See, Philips Medical Sys. Int'l B.V. v. Bruetman*, 982 F.2d 211, 215 n.2 (7th Cir. 1992).

The *King* court ruled that plaintiff King must establish changed circumstances by a preponderance of the evidence. *King*, J.S. App. at 19. If changed circumstances were established, the *King* court would then analyze the evidence *de novo*. *Id*.

a. The *King* Court's Analysis of the *Hastert* Court's Section 2 Findings.

The *King* court determined that the *Hastert* court properly found that the Hispanic community was sufficiently large and geographically compact under the first prong of *Gingles* and that plaintiff King failed to rebut this finding by competent evidence. The court rejected plaintiff's argument that the Hispanic community in Chicago lacked political cohesion because it consists of Mexican-American and Puerto Rican residents. The only evidence plaintiff King submitted was anecdotal evidence which the *King* court found was "incredible, and wholly insufficient to support the inferences and conclusions King seeks to draw." *King*, J.S. App. at 62.

King argued at trial that changed circumstances existed with respect to the *Hastert* court's findings of racial bloc voting. The *King* court rejected this argument because it was not supported by the recent citywide elections or any meaningful statistical analysis. *King*, J.S. App. at 62-63. Instead the court credited Professor Allan Lichtman's ecological regression and extreme case analysis of forty-one elections held between 1983 and 1995. Professor Lichtman's analysis established a "definite and continuing pattern of white racial-bloc voting against Hispanic candidates." *King*, J.S. App. at 63-64.

Lastly, at trial King argued that the Fourth Congressional District was not sufficiently compact to create a remedial district. In support of this argument King offered evidence that the district has many sides and is not visually appealing. The court rejected this argument. The court found that the evidence from the *Hastert* case and the

evidence taken at trial in this case, confirmed that the Hispanic community in Chicago was geographically compact as required by *Gingles*. *King*, J.S. App. 59-62. In so holding, the *King* court found that the *Hastert* court's prior determination of geographic compactness was proper because King failed to establish present day circumstances which would indicate changed circumstance. *Id.* at 64.

The *King* court concluded its review of the *Hastert* Section 2 findings as follows:

> the *Hastert* court had a strong basis for finding a Section 2 violation and for adopting a redistricting plan that remedied that violation. In this regard, the *Hastert* court cited with approval prior judicial determinations that found a definite and continuing pattern and practice of electoral discrimination against the Hispanic community in the City of Chicago and the State of Illinois. The *Hastert* court further found that this historical discrimination against the Hispanic community was on-going, most visibly in the racial bloc voting that effectively limited the Hispanic community to a disproportionately small number of Hispanic elected officials at the city and state-levels and more subtly in the social and economic discrimination that adversely affected effective political participation and representation. Under these circumstances, the creation of an Hispanic majority district advanced the state's compelling interest of remedying past discrimination against Hispanics. *King*, J.S. App. at 66-67 (footnote omitted).

After finding that the *Hastert* court's adoption of the Fourth Congressional District was an appropriate remedy to

a finding of vote dilution under Section 2, the *King* court then addressed the issue of narrow tailoring.

D. The *Hastert* and *King* Court's Finding of Narrow Tailoring.

In *Hastert*, the court subjected the two proposed plans to an exacting constitutional review. *Hastert*, 777 F. Supp. 640-62. In so doing, the court noted that the Fourth Congressional District was narrowly tailored to include those Hispanics who suffer from vote dilute. *Hastert*, 777 F. Supp. at 650. Further, the court stated that the Fourth Congressional District contained the number of Hispanic residents that was minimally necessary to ensure a reasonable opportunity to exercise effective political participation. *Hastert*, 777 F. Supp. at 655. Moreover, the court determined that the shape of the district was required to preserve the shared interests of Hispanics while also protecting the three African American majority districts from impermissible retrogression. *Id.*

In determining which plan better served the remedial purpose of curing vote dilution, the *Hastert* court evaluated both plans for fairness to the voting rights of the African American and Hispanic racial/ethnic majorities. *Hastert*, 777 F. Supp. at 645. Because three African American majority districts already existed prior to the litigation, the *Hastert* court was concerned that any new remedial plan not result in "retrogression" of the ability of African Americans to choose a candidate of choice. *Id.* at 647. Further, because it had been established that a 65% majority of African Americans in a district was required to provide a meaningful opportunity to elect a candidate, (*See Ketchum v. Byrne*, 740 F.2d 1398, 1408 n.7 (7th Cir. 1984), *cert. denied*, 471 U.S. 1135 (1985), the court reviewed the proposed plans in order to determine whether any remedial measure afforded the Hispanics would impermissibly dilute African American voting strength. *Hastert*, 777 F. Supp. 647-48.

The *Hastert* court adopted a remedial plan which accomplished both objectives in the least intrusive manner. The plan created a new Hispanic majority district with 65% total population and maintained three African American districts with at least 65% total population. The court also scrutinized the proposed remedial plans and determined that the plan that was subsequently adopted best served the interest of fairness to both Democrats and Republicans. *Hastert*, 777 F. Supp. at 655-59. In fact, the court noted that the creation of a Hispanic majority district and the maintenance of three African American majority districts had bipartisan support. *Id.* 646 n.19.

The *King* court found that the *Hastert* court had scrutinized the constitutionality of the Fourth Congressional District and had properly determined that the district was an appropriate remedy to cure a Section 2 violation. *King*, J.S. App. at 68-70. The *King* court did note that the adopted plan "includes virtually all areas of high Hispanic concentration on the northern ... part of the City of Chicago as well as virtually all of the areas of high Hispanic concentration on the southern part of the City of Chicago," (*King*, J.S. App. at 54 (internal citations omitted)), with the "western connector" making up only 4.7% of the total population of the district and 3.1% of the district's Hispanic population. *King*, J.S. App. at 59 n.49. The court concluded that the plan was "properly proportioned to the nature of the violation" and was "narrowly tailored." *King*, J.S. App. at 70.

ARGUMENT

This Court has recently held that the application of strict scrutiny does not mean "strict in theory, but fatal in fact." *Adarand Constructors, Inc. v. Pena*, ___ U.S. ___, 115 S. Ct. 2097, 2117 (1995) (citation omitted). Indeed, this Court has recognized that "[t]he unhappy persistence of both the practice and lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and

government is not disqualified from acting in response to it." *Id.*; *see also id.* at 2135-2136 (Ginsburg, J., dissenting).

Here, it was the federal court, and not the government who acted in response to racial discrimination. In an effort to remedy proven past and present racial discrimination in the voting rights context against Hispanics in Chicago and to avoid a strong Section 2 challenge of retrogression in the African American districts, the lower court in this case allowed a 1991 court-ordered remedial plan to stand against a constitutional challenge. The 1991 court-ordered remedial plan created, for the very first time, a fair opportunity for Hispanics to elect a congressman of their choice. In following this Court's precedent, the *King* court determined upon a thorough review of all the evidence that the application of strict scrutiny to the 1991 remedial plan was indeed not "fatal in fact." *Adarand,* 115 S. Ct. 2117.

I. IN APPLYING STRICT SCRUTINY TO THE CHALLENGED PLAN, THE DISTRICT COURT PROPERLY DEFERRED TO THE *HASTERT* COURT FINDINGS SUBJECT TO KING DEMONSTRATING ERROR OR CHANGED CIRCUMSTANCES.

King erroneously claims that he was denied the opportunity to prove his case. J.S. at 6. Because the procedural facts of this case are quite unique, and in an effort towards judicial economy, the *King* court correctly conditionally admitted the *Hastert* court findings under Federal Rule of Evidence 201.

King asserts at length that the district court erred in treating this case under Federal Rule of Civil Procedure 60(b) because the doctrines of "collateral attack" and "*res judicata*" did not apply to King since he was not a party to the *Hastert* litigation. J.S. at 6-10. This is a non-issue. It is undisputed that King was not a party or in privity to the *Hastert* litigation. However, because the essence of King's lawsuit was essentially an attack on the remedial plan

adopted by the *Hastert* court, the lower court appropriately applied a modified version of the Rule 60(b) standard. *King*, J.S. App. at 17. The lower court held that it would admit into evidence the findings of fact of the *Hastert* court and would adopt those findings unless King demonstrated (1) that the findings were "clearly erroneous"; or (2) that specific factual circumstances had changed. *King*, J.S. App. at 18-19.[7]

The lower court's conditional admittance of the *Hastert* court's findings was proper. As the lower court noted, had King been a party or in privity to the *Hastert* litigation, Rule 60(b) would have applied and the findings of fact established by the *Hastert* court would have been admitted as the "law of the case." *See, Bennett v. Arrington*, 806 F. Supp. 926, 927 n.2 (N.D. Ala. 1992), *aff'd in part, rev'd in part on other grounds*, 20 F.3d 1525 (11th Cir. 1994). However, the *King* court only conditionally admitted the findings of the *Hastert* court. King was given a full opportunity at trial to show that the *Hastert* findings were in error or were no longer valid.

In support of his claim of error, King cites to the case of *Martin v. Wilks*, 490 U.S. 755 (1989). Rather than supporting King's position, the subsequent history of the *Wilks* case affirms the decision made by the *King* court.

In *Wilks*, this Court allowed white firemen to assert an equal protection challenge to a 1981 consent decree concerning minority hiring goals even though they were not a party to the original lawsuit which resulted in the consent decree. *Id.* The original lawsuit which resulted in the consent decree arose out of a claim of reverse discrimination by the three white firemen, but was subsequently reversed by the Eleventh Circuit. *See, In re: Birmingham Reverse*

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[7] Although King now claims that the lower court erred in conditionally admitting the *Hastert* findings, King has nonetheless availed himself of this ruling by relying upon many of the findings of fact established by the *Hastert* court to support his claims of error. *See,* J.S. at 12, 16-18.

Discrimination Employment Litigation, 833 F.2d 1492 (11th Cir. 1987), *aff'd, Martin v. Wilks*, 490 U.S. 755, 109 S. Ct. 2180 (1989). Following this Court's decision in *Wilks*, the district court held a second trial to address the reverse discrimination claims. *Bennett v. Arrington*, 806 F. Supp. 926, 927 n.2 (N.D. Ala. 1992), *aff'd in part, rev'd in part on other grounds*, 20 F.3d 1525 (11th Cir. 1994). At this second trial, the district court admitted into the record the evidence admitted and relied upon by the original *In re: Birmingham Reverse Discrimination Employment Litigation* trial court. *Bennett*, 806 F. Supp. at 927. Likewise, the *King* court admitted into the trial record the original facts relied upon by the *Hastert* court and gave King an opportunity to demonstrate that those facts were clearly erroneous or that changed circumstances existed which would lead to a different factual conclusion.

King was given a full opportunity to prove his case. He had three trial days to show that the *Hastert* findings were wrong or that changed circumstances existed. At trial all parties addressed the issues of the *Gingles* preconditions, communities of interest, and traditional redistricting principles. King was not precluded from proving his case in any manner. Rather, he was unable to put forth competent evidence to support his claim. This does not raise a valid issue for review by this Court.

II. THE DISTRICT COURT CORRECTLY FOUND THAT CREATION OF A MAJORITY HISPANIC DISTRICT WAS REQUIRED TO SERVE THE COMPELLING GOVERNMENTAL INTEREST OF COMPLYING WITH SECTION 2 OF THE VOTING RIGHTS ACT.

There is a compelling governmental interest in complying with Section 2 of the Voting Rights Act so as to assure that a state's redistricting plan does not dilute minority voting strength. *Bush v. Vera*, __ U.S. __,116 S. Ct. 1941, 1968-69 (1996) (O'Connor, J., concurring); *id.* at 1975, 1989 (Stevens, J., joined by Ginsburg and Breyer, JJ.,

dissenting); *id.* at 1998, 2007 (Souter, J., joined by Ginsburg and Breyer, JJ., dissenting). As Justice O'Connor observed in *Bush,* 116 S. Ct. at 1969-1970:

> [W]here voting is racially polarized, §2 prohibits States from adopting districting schemes that would have the effect that minority voters "have less opportunity than other members of the electorate to . . . elect representatives of their choice." §2(b). That principle may require a State to create a majority-minority district where the three *Gingles* factors are present -- viz., (i) the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district," (ii) "it is politically cohesive," and (iii) "the white majority votes sutficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate." *Thornburg v. Gingles*, 478 U.S. at 50-51.

The three-judge court in this case concluded that all three of the *Gingles* factors are present in this case, and that a majority Hispanic district was necessary to comply with Section 2. Those findings are supported by substantial evidence, are not clearly erroneous, and present no issue warranting further review by this Court.

First, both the *Hastert* Court in 1991, and the court below in 1996, found that the Hispanic population of Chicago was sufficiently large and geographically compact to constitute a majority in a single-member district. *Hastert*, 777 F. Supp. at 649; *King*, J.S. App. at 64. As both courts acknowledge, the Hispanic population in Chicago had grown to 545,852 by 1990; most of this population is clustered in two dense enclaves that are approximately a mile apart at their closest point; and this small separation does not reflect the existence of two distinct communities, but merely the presence of a highway and institutional campuses that lie between the two enclaves. *King*, J.S. App. at 28, citing *Hastert*, 777 F. Supp. at 649.

King argues that the Hispanic population is insufficiently compact under *Gingles* because the Fourth Congressional District is not itself compact. J.S. at 29. Even assuming that the "western connector" of the Fourth Congressional District indeed renders the district noncompact — an incorrect assumption, as demonstrated below — King's argument is nevertheless in error. "The first *Gingles* condition refers to the compactness of the minority population, not to the compactness of the contested district." *Bush*, 116 S. Ct. at 1971 (Kennedy, J., concurring); *see also id.* at 1970 (O'Connor, J., concurring) (noting that, despite noncompactness of challenged District 30 in Dallas County, other potential district configurations showed requisite geographical compactness of minority population).[8] Thus, because the Hispanic population itself is geographically compact, the requisite showing under the first prong of *Gingles* is not defeated merely because the challenged district departs to some extent -- here, to a very small extent -- from the configuration that would *maximize* the district's compactness.

King further argues that a finding under the first prong of *Gingles* is barred as a matter of law absent proof that Hispanics constitute more than 50% of the citizen voting-age population (CVAP) of the challenged district. This argument presents no significant issue for review. Hispanics make up 65% of the district's total population and 59% of its voting-age population, and the district actually elected an Hispanic candidate in both 1992 and 1994. The purpose of the first prong of the *Gingles* requirement is to determine whether "minority voters possess the *potential* to elect representatives in the absence of the challenged structure or practice," *Gingles*, 478 U.S. at 50 n.17 (emphasis in original), and that potential clearly has been realized by District 4. *Cf.*

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[8] As several maps in the record indicate, a hypothetical majority-Hispanic district can be drawn using regular and reasonably compact shapes, including through the use of a "middle connector." *See* D.I. App. at 2-3.

Bush v. Vera, 116 S. Ct. at 1970 (noting that proof satisfied *Gingles* factors in Dallas County, Texas where reasonably compact plans with 44% or 45.6% African American populations could be drawn).

Further, even assuming that a district with less than a 50% Hispanic CVAP could never satisfy the first prong of the *Gingles* requirement,[9] King's assertion that Hispanics make up 45% of the CVAP in District 4 is only an estimate. The district court properly declined to adopt this estimate as definitive because it reflected several flaws and omissions, most of which King ignores in his jurisdictional statement.[10]

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[9] For numerous reasons, it would be improper to require proof of a majority-Hispanic CVAP before a majority-Hispanic district could be drawn. For one thing, the Census Bureau does not release citizenship estimates when it releases the results of the census enumeration, and such information is simply unavailable at the time when states must conduct decennial redistricting early in the decade. *See also Wilson v. Eu*, 1 Cal. 4th 732, 750-51 (1992) (rejecting requirement of CVAP majority as basis for assessing the first prong of *Gingles*); *LULAC v. North East Independent School District*, 903 F. Supp. 1071, 1083-84 (W.D. Tex. 1995) (same). Further, the data the Census releases for redistricting purposes is from a full-count enumeration while the citizenship data derives from a sample count of the population. *King*, J.S. App. at 61 n.58. This sample-count citizenship data is released at the block-group level while the full-count data is released at the smaller, and more precise, block level. *Id.* Consequently, the citizenship sample-count data is subject to sampling error. *King*, J.S. App. at 61 n.58. However, the issue need not be resolved here, because there is no substantial factual dispute that Hispanic residents are sufficiently numerous to elect a candidate of choice in Fourth Congressional District.

[10] King's estimate was flawed in part because it failed properly to account for split Census group blocks; because the Census data involved is not based on an enumeration, but

(continued...)

The jurisdictional statement also does not identify any specific error in the district court's findings that Hispanics are politically cohesive (*Gingles* prong 2), and that whites vote sufficiently as a bloc usually to defeat Hispanic candidates except in districts where Hispanics comprise a majority of the population (*Gingles* prong 3), stating only that appellant "does not concede" the presence of racial bloc voting. J.S. at 25. However, substantial evidence supports the district court's conclusion of legally significant racially polarized voting in Chicago. The *King* court credited Dr. Allan Lichtman's ecological regression and extreme case analysis of forty-one elections held between 1983 and 1995. *King*, J.S. App. at 63. The evidence showed that Hispanics in Chicago consistently support Hispanic candidates and that the statistical results "establish a definite and continuing pattern of white racial-bloc voting against Hispanic candidates." *King*, J.S. App. at 63. As a result of this bloc voting, no Hispanic candidate has ever been elected to Congress, the state legislature, or the Chicago City Council except from majority-Hispanic VAP districts, and only one Hispanic candidate has ever won a citywide election. This evidence and other substantial evidence fully supported the district court's findings that the second and third *Gingles* factors were present. *Cf. Bush v. Vera*, 116 S. Ct. at 1970

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[10](...continued)
instead on sampling techniques that are subject to sample errors; and because it did not overcome defendant-intervenors' evidence that naturalization and an INS amnesty program had increased the number of Hispanic citizens in the district. J.S. App. at 61 n.58. Further, it is immaterial that the district court in one passage may have characterized plaintiff's 45% estimate as an estimate of the percentage of adult Hispanics who were citizens, rather than the percentage of the adult citizen Hispanics in the district. The court correctly recognized that there was simply no "competent evidence that the Hispanic citizen voting age population falls below fifty percent." J.S. App. 61.

(O'Connor, J., concurring) (noting that racially polarized voting in Dallas County was properly demonstrated by similar evidence).

Ignoring the findings made on each of the three *Gingles* factors, appellant argues that the judgment below is in error because the district court "never reviewed whether a [Section 2] violation existed." J.S. at 21. This argument is without basis. The court carefully reviewed the record evidence on each of the three *Gingles* factors, considering not only the evidence before the *Hastert* court but additional evidence put on by the parties at the 1995 trial, and found that the evidence demonstrated the existence of each factor. *King*, J.S. App. at 58-65; *id.* at 68 ("The *Hastert* court adopted the Fourth Congressional District to remedy a proven Section 2 violation. The injuries resulting from the dilution of the Hispanic voting power were clear and present").[11] These are precisely the findings contemplated under this Court's decisions as a predicate for drawing a majority-minority district. *Bush v. Vera*, 116 S. Ct. at 1961 (noting that the three *Gingles* factors are "the threshold conditions for § 2 liability" that must be assessed under the strict scrutiny test) (plurality opinion) (citations omitted); *id.* at 1970 (O'Connor, J., concurring).

Plaintiff's citation of *Voinovich v. Quilter*, 507 U.S. 146, 156 (1993), as imposing a more onerous burden for court-ordered majority-minority districts, is inapposite. In *Voinovich*, the federal court had improperly struck down a legislative redistricting plan crafted by the Ohio legislature, without proper proof of a Section 2 violation. Here, the federal court's role in crafting the 1991 redistricting plan was different because the Illinois legislature had failed to enact

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[11] As the court below noted, the *Hastert* record included findings on additional factors supportive of a Section 2 claim under the totality of circumstances, and plaintiff declined, during the proceedings below, to put on further evidence concerning such factors. *King*, J.S. App. at 64-65.

any redistricting plan and the *Hastert* court therefore was *required* to assume that "unwelcome obligation." *Connor v. Finch*, 431 U.S. 407, 415 (1977). Under such circumstances, as both the *Hastert* court and the court below properly recognized, it was entirely proper for the *Hastert* court to create a majority-Hispanic district to avoid unlawful dilution of Hispanic voting strength under Section 2 of the Voting Rights Act.

III. THE *HASTERT* COURT'S REMEDIAL PLAN IS NARROWLY TAILORED TO SERVE THE COMPELLING STATE INTEREST OF COMPLYING WITH THE VOTING RIGHTS ACT.

This Court has held that a district survives strict scrutiny if there is a "strong basis in evidence" to show that a majority-minority district is reasonably necessary to comply with Section 2 and that it "substantially addresses the § 2 violation." *Bush v. Vera*, 116 S. Ct. 1941, 1960 (1996) (plurality opinion) (internal citations omitted). Further, this Court has rejected as "impossibly stringent" the view that "a district must have the least possible amount of irregularity in shape, making allowances for traditional districting criteria." *Id.* (internal citations omitted). The record below fully supports the lower court's findings that the Fourth Congressional District is narrowly tailored and meets strict scrutiny.

In creating this remedial district, the *Hastert* court narrowly tailored the district to included the specific geographically compact Hispanic population found to be discriminated upon through vote dilution. Moreover, the portion of the district that gives it a noncompact visual appearance, the "western connector," contains only 4.7% of the overall population of the Fourth Congressional District. This means that all but a small fraction of the population resides within the compact area that essentially coincides with a "hypothetical court-drawn district," (*Bush*, 116 S. Ct. at 1970)(O'Connor, J., concurring)), that satisfies the first

prong of *Gingles*. *Compare Shaw v. Hunt (Shaw II)*, __ U.S. __, 116 S. Ct. 1894, 1907 (1996) (only 20% of the challenged district coincided with the area where blacks were alleged to be geographically concentrated). Because this Court has determined that a remedial district does not have to achieve the maximum possible compactness, the very small percentage of population within the allegedly non-compact "western connector" supports the district court's conclusion that the Fourth Congressional District is narrowly tailored to address the Section 2 violation.[12]

A. The Fourth Congressional District Does Not Disregard Illinois' Traditional Redistricting Principles.

The Fourth Congressional District does not reflect a "substantial disregard" for Illinois' redistricting principles. *Miller*, 115 S. Ct. at 2497 (O'Connor. J., concurring). King asserts that political subdivisions were split in the crafting of the Fourth Congressional District in violation of Illinois' traditional redistricting standards. J.S. at 15. The evidence at trial did not support this assertion. The lower court found that the evidence submitted on this point showed that political lines in the Fourth Congressional District were split at an equal, if not at a lower rate as compared to non-minority populated districts. *King*, J.S. App. at 55. Furthermore, King's own expert Christopher Cleveland conceded that the primary reason why the Fourth

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[12] When only 4.7% of the population of a district lies within the area that gives rise to a noncompact visual appearance, such a *de minimis* impact should not invalidate the district. *Cf. White v. Regester*, 412 U.S. 755, 764 (1973) (maximum total deviation of 9.9% from ideal district population held insufficient to make out a *prima facie* case of one-person, one-vote violation under Fourteenth Amendment); *Gaffney v. Cummings*, 412 U.S. 735, 750-51 (1973) (maximum total population deviation of 8% insufficient to make out a *prima facie* case under Fourteenth Amendment).

Congressional District appeared to have split townships and counties at a greater rate than other districts was because of the "western connector." D.I. App. at 6. Thus, the vast majority of the Fourth Congressional District (95% of the district) did not split townships or counties.

Moreover, the court found that King's argument that the traditional redistricting principle of respect for political subdivisions was ignored was not supported by the evidence. The court stated that "[t]he data permits the uncertain conclusion that compared to other Illinois congressional districts, the map of the Fourth Congressional District did not excessively split political subdivisions." *Id.*[13] King does not dispute the evidence in the record that other congressional districts split a comparable or greater number of political subdivisions as does the Fourth Congressional District.

Further support for this lies in the 1982 Illinois state legislative redistricting case where a three-judge federal panel minimized its reliance on political boundaries for redistricting in Illinois and stated that it would not strike down the challenged plan "merely because it fractures a number of political subdivision lines or creates districts that overlap between Chicago and its surrounding suburbs." *Rybicki v. State Board of Elections*, 574 F. Supp. 1082, 1099 (N.D. Ill. 1982) (three-judge court). And it is clear that respect for political subdivisions does not correspond to respect for communities of interest in Illinois. As the Illinois Supreme Court has stated "boundary lines of villages, townships,

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[13] King argues that election precincts were unduly split in the configuration of the Fourth Congressional District. J.S. at 15. This argument is without merit. Illinois law provides that all precinct boundaries will be reconfigured following the completion of congressional reapportionment. *10 ILCS 5/11-3*, J.S. App. at 77-78. Thus, in Illinois the boundaries of the congressional districts determine the boundaries of the precinct lines.

counties and cities do not necessarily reveal communities of interests." *People of the State of Illinois ex rel. Burris v. Ryan*, 147 Ill.2d 270, 282 (Ill. 1991) (Heiple, concurring), *aff'd after remand*, 147 Ill.2d 270 (1992), *cert. denied*, 504 U.S. 973 (1992).

B. The Shape of the Fourth Congressional District is Reasonably Compact to Remedy a Finding of Vote Dilution.

The Fourth Congressional District is comprised predominately of two densely Hispanic populated neighborhoods which are geographically close to each other. The district is only 14 miles wide from its western most point to its eastern most point. D.I. App. at 1. It is only 16 miles long, from north to south. *Id.* All of the district is within Cook County (D.I. App. at 6), and a vast majority of the district is within the City of Chicago. D.I. App. at 6.[14]

Also, the Fourth Congressional District is located in one media market. D.I. App. at 5. The record below established that the current congressman for this district is able to communicate and effectively represent the residents within all of the district with no difficulty. D.I. App. at 4.

Further, the Fourth Congressional District is substantially different from the districts struck down by this

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[14] As evidence of the compactness of the Latino community, the lower court noted that a relatively small triangle could be drawn around the two dense Latino populated enclaves on the northern and southern portions of the district. Although the lower court found that the western connector or the northern most or southern most points would not fit within this small triangle, the court apparently recognized the *de minimis* nature of these outer-triangle areas in holding that "[t]he finding of geographic compactness [under Section 2] thus does correspond to a separate finding that the Fourth Congressional District was also compact." *King*, J.S. App. at 52 n.48.

Court. In *Miller,* this Court determined that the Eleventh Congressional District connected black population of metropolitan Atlanta with rural black population of coastal Chatham County, which were 260 miles apart. This Court further noted that the social and economic characteristics of the two areas were different. *Miller*, 115 S. Ct. at 2484. Here, the record establishes that the Fourth Congressional District is relatively small in size and dense in concentration. And, unlike the district in *Miller*, it also seeks to connect population areas which share common socio-economic characteristics. *King*, J.S. App. at 56.

The facts of this case are also inapposite to the facts of *Shaw II.* In *Shaw II* the district at issue was found by this Court not to be narrowly tailored because it was not "geographically compact" under the first prong of *Gingles*, and the district was not located in the geographic area where the alleged violation of Section 2 was to have occurred. *Shaw II*, 116 S. Ct. at 1906. Because of these facts, this Court found that the district was not necessary since the *Gingles* preconditions were not met and the district was not narrowly tailored. Here, the lower court correctly found that the geographically compact Hispanic population that suffers from vote dilution would form the basis for the configuration of the reasonably compact Fourth Congressional District. Unlike the facts in *Shaw II*, the Fourth Congressional District is narrowly tailored.

In addition, to the extent that the district is not visually compact due to the "western connector," this is a result of an effort to avoid clear retrogression in the African American majority districts. The *Hastert* court specifically found that the Fourth Congressional District's shape was dictated by the need to preserve the three existing African American districts which, the court held, was required under the Voting Rights Act. *Hastert*, 777 F. Supp. at 650. As the *King* court noted, in order to ensure that the three pre-existing African American districts had sufficient population to create effective and constitutional (one-person, one-vote) districts,

the shape of the African American districts necessarily affected the boundaries of the Fourth Congressional District and resulted in the "western connector." *King*, J.S. App. 50-51.

Under the 1980's congressional plan, the three African American districts had black majorities well over 65% total population. *Hastert*, 777 F. Supp. at 646 n.19. After *Hastert*, those majorities were substantially reduced to just around 65% total population even with the use of the "western connector." Thus, avoiding non-retrogression and a violation of Section 2 with respect to African Americans was a real and substantial justification for the use of the "western connector" and the resultant minor departure from total compactness. The court adopted a plan that preserved the voting rights of both the Hispanic and African American affected population, at no expense to white voting strength.

King's additional argument concerning the alleged failure to consider alternative remedies does not present a valid issue for review. J.S. at 16.[15] The district court determined that the Fourth Congressional District was a necessary remedy that reflects a balancing process "left, within the appropriate constitutional or statutory limits, 'to the sound discretion of the trial court'." *United States v. Paradise*, 480 U.S. 149, 183-85 (1987)(internal citations omitted).

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[15] King further asserts that the Fourth Congressional District is not narrowly tailored because its shape is attributable to race and that traditional districting principles were subjugated in the drafting of the plan. J.S. at 13, 15. This argument is equally unpersuasive. In supporting his argument, King misstates the record. Contrary to King's assertion, the *King* court specifically noted that "geographic compactness" of the Hispanic residents does correspond to a separate finding that the Fourth Congressional District is also compact. *King*, J.S. App. at 52 n.48.

The record is clear that the lower court did address the issue of alternative remedies and found that the *Hastert* court properly tailored the remedy in this case.[16] The evidence below establishes that the Fourth Congressional District is a remedial plan that was specifically designed to cure proven vote dilution while not retrogressing the voting rights of the African American population. The *Hastert* court adopted a remedial plan which accomplished both objectives in the least intrusive manner. Both the Fourth Congressional District and the African-American majority Seventh Congressional District comprise only 65% minority population, the least amount of population necessary for effective minority districts in Chicago. King does not assert that the lower court's findings on the issue of potential retrogression in the African American districts are in error and the evidence below fully supports the lower court's findings.

C. The Fourth Congressional District Respects Communities of Interest.

The evidence below illustrates that the Fourth Congressional District contains a community with actual shared social and economic interests. *King*, J.S. App. at 62 n.59. A noted ethnographer and sociologist, Dr. Felix Padilla, testified about the economic and social cohesiveness of the Hispanic residents of the Fourth Congressional District. These commonalities included a common history of

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[16] King argues that other proposals submitted to the *Hastert* court should have been evaluated by the *King* court as alternative remedies. J.S. at 18-17. What should be noted is that each of the proposals King alludes to creates a majority Latino congressional district. The distinction among the plans concerns the placement of a "connector." Because the *Hastert* court's Fourth Congressional District best served the purposes of remedying dilution of Latino voting strength while also maintaining the three-existing African American districts from impermissible retrogression, the remedy was narrowly tailored and no race-neutral alternatives existed.

combatting social and political concerns as a unified group. *King*, J.S. App. at 62 n.59. Also, during the trial on the 1991 *Hastert* litigation, persons who were involved in developing the Fourth Congressional District as a proposed plan offered evidence to the *Hastert* court which demonstrated that the Hispanic population within the Fourth Congressional District had common social and economic concerns. *King*, J.S. App. at 62 n.59.

Further evidence was brought out at trial in this case which showed that while Latinos in the Fourth Congressional District area shared common socio-economic concerns, the white, African American and Hispanic populations in Chicago have substantially different socio-economic characteristics in areas of home ownership, income levels, unemployment, education and poverty levels. *King*, J.S. App. at 56. Importantly, the *King* court noted that the testimony of Dr. D. Garth Taylor demonstrated that the socio-economic characteristics of the Fourth Congressional District contrasted greatly with the socio-economic characteristics of the surrounding African American congressional districts. *Id*. Thus, rather than disregarding communities of interest, the *Hastert* remedial plan respects communities of interest. This also provide substantial justification of the creation of the Fourth Congressional District.

The *Hastert* court determined that the Hispanic community was geographically compact, politically cohesive and unable to elect candidates of their choice due to white bloc voting. *Hastert*, 777 F. Supp. 649-51. Furthermore, the court crafted a remedy which included the very same population experiencing vote dilution and limited the district to the minimum number of Hispanic residents generally believed necessary to provide an opportunity to elect a candidate of choice. *King*, J.S. App. at 70. As this Court has stated "[a] Section 2 district that is reasonably compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries, may pass strict scrutiny without having to defeat

rival compact districts designed by plaintiffs' experts in endless 'beauty contests'." *Bush v. Vera*, 116 S. Ct. at 1960.

The *Hastert* court carefully scrutinized the proposals before it, considered the extent of the proven discrimination and the potential for impermissible retrogression, and adopted a plan which provided for the minimum amount of Hispanic population necessary to remedy vote dilution. Without the Fourth Congressional District, the Hispanic population that was found to have suffered from vote dilution would be substantially underrepresented in the political structure.

The *Hastert* court did not create more majority districts than was necessary to effectuate a remedial measure. As of 1990, Hispanics in Chicago comprise approximately 20% of the total population and 17% of the voting age population. The *Hastert* court created one district where Hispanics comprise approximately 65% of the total population and 59% of the voting age population — a district which has elected the first Hispanic congressman in the entire Midwest. The Fourth Congressional District is an appropriate remedy to address proven vote dilution. The record in this case clearly supports the lower court's findings that the Fourth Congressional District meets strict scrutiny.

CONCLUSION

King's arguments are completely without merit to warrant any further review from this Court. For the reasons noted above, this Court should grant Defendant-Intervenors' Motion to Affirm.

Dated: September 20, 1996

Respectfully submitted,

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No. 96-146

In The

Supreme Court of the United States

October Term, 1995

JAMES R. KING,

Appellant,

v.

STATE BOARD OF ELECTIONS, *et al.*,

Appellees,

BOBBY RUSH, TIMUEL BLACK, AL JOHNSON, ELVIRA CARRIZALES, NEOMI HERNANDEZ AND THE CHICAGO URBAN LEAGUE,

Defendant-Intervenors.

On Appeal From The United States District Court For The Northern District Of Illinois

APPENDIX TO DEFENDANT-INTERVENORS' MOTION TO AFFIRM

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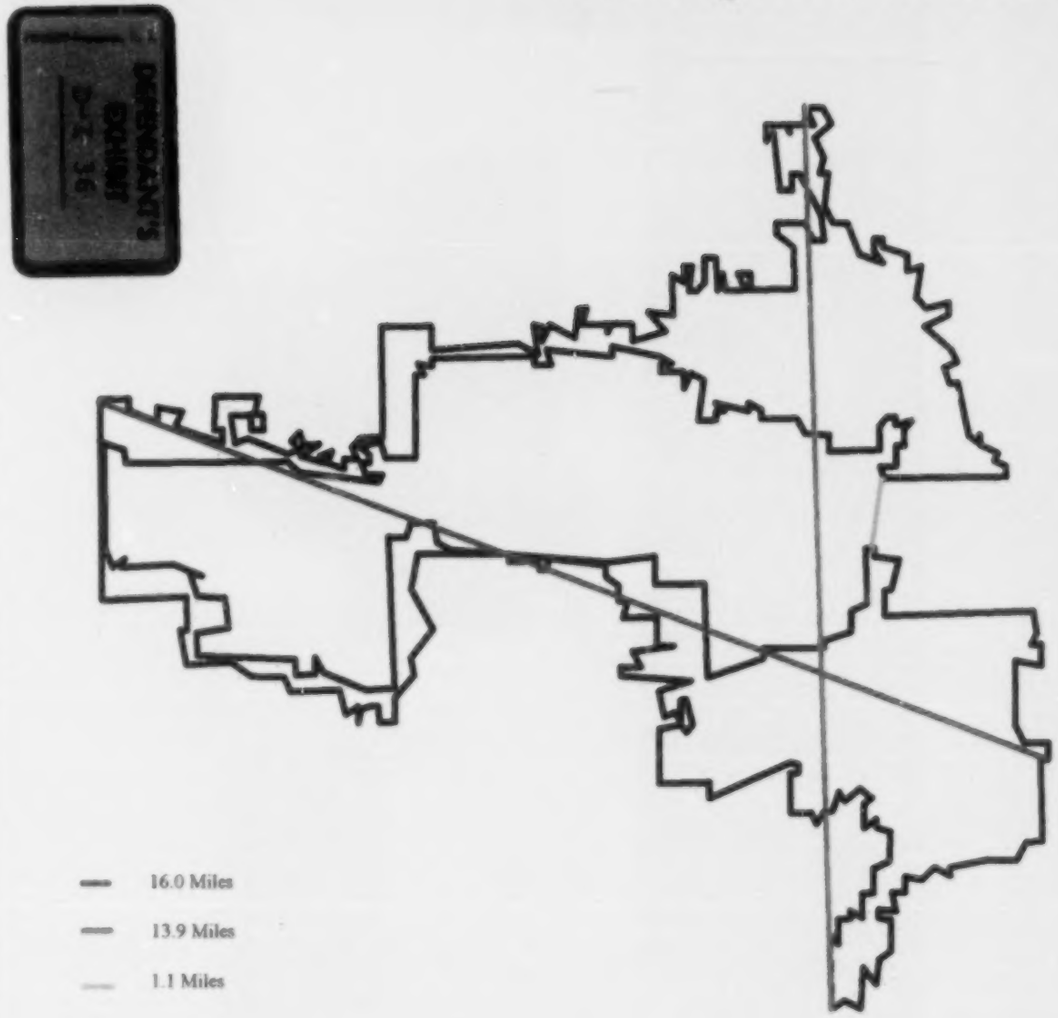
EXCERPT OF TESTIMONY FROM CROSS EXAMINATION OF CHRISTOPHER CLEVELAND...App. 6

4th Congressional District



4th Congressional District

Miles
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Metro Chicago Information Center

Source: U. S. Department of the Census

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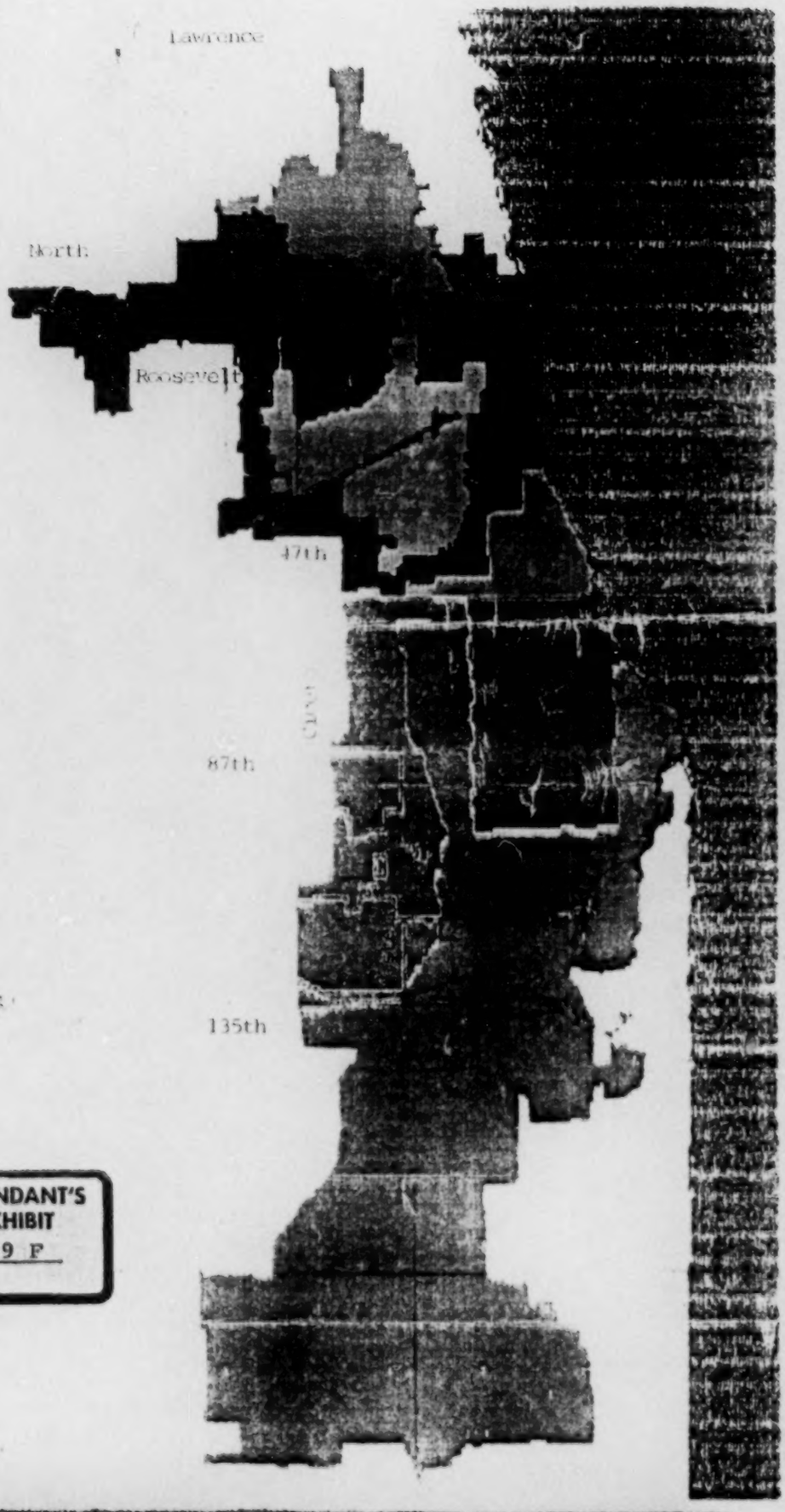


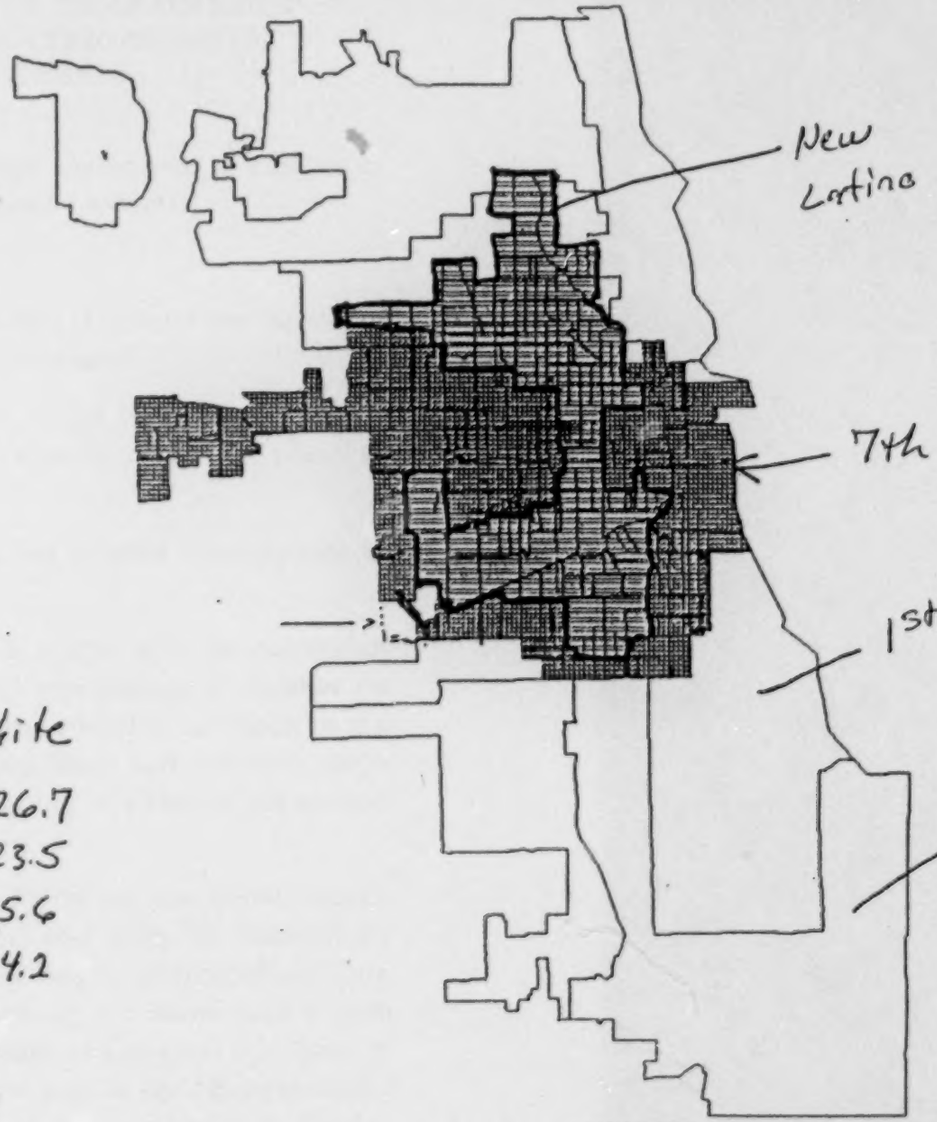
DEFENDANT'S EXHIBIT
29 F

DISTRICT	98	98	98	98	98
571530	TOT POP	HSP POP %	NHW POP %	BLK POP %	HSP VAP %
=1	571529	6,336	25,644	65,478	5,768
=6	571524	63,059	26,732	7,204	57,979
0	571530	6,604	25,181	67,862	5,931
>571530	0	0,000	0,000	0,000	0,000
<6	571524	4,697	25,931	68,650	4,085

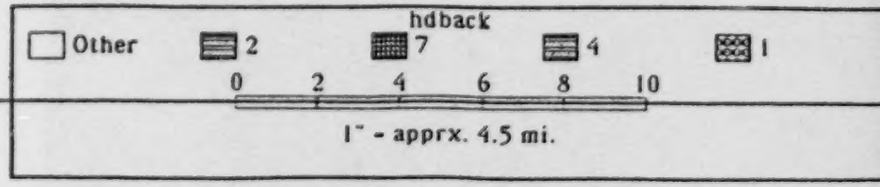
App. 3

MNVREP/MALDEF MINORITY CONGRESSIONAL DISTRICTS, JUNE 6 91

DEFENDANT'S EXHIBIT 29 G



	Black	Hisp	White
New	7.8%	62.6	26.7
1	69.2	6.2	23.5
2	65.6	8.0	25.6
7	65.2	7.6	24.2



EXCERPT TESTIMONY FROM DISTRICT EXAMINATION OF CONGRESSMAN LUIS GUTIERREZ

* * *

[p. 537] Q And does that enable you to effectively represent the 4th Congressional District?

A I believe it has.

Q Is it difficult for you to get around the district to communicate with your constituents?

A Takes me 20 minutes to get from just about any point in the congressional district from one point to another.

Q Now, have you had any trouble campaigning in the district?

A Absolutely not. It's – it's easy to campaign because it's easy to get from one church to another on Sundays, and almost all of the churches are open to me for campaigning, and the bus stops and the train stops and typical kinds of campaigning. It's easy to get around the congressional district.

I mean if you hold an activity on, you know, Damen and 47th Street and the next one is up on Western by Addison, you might get – and they're within half an hour. But it's very simple. I know of – I know that I have members and colleagues of mine in Congress who have to spend hours getting from one part of their congressional district to another part of their congressional district.

Q Is the 4th Congressional District in one media market?

A Yes, one media market, the Chicago media market.

Q And that includes both the English and Spanish media market?

[p. 538] A Both the English and Spanish media market, which has been borne out by our citizenship campaign.

* * *

Q Now, an area that's part of the 4th Congressional District is the Stone Park area; is that right?

* * *

A Yes.

Q And do you service that area?

A Yes. I was there last Saturday and I have been there probably not as frequently as I should be. I visited that area four times at least since I become elected a member of Congress.

Q And do the residents of Stone Park in your view share the common concerns of the residents of the rest of the 4th Congressional District?

A Yes, they do.

Q And is it difficult for you to get to Stone Park?

A Straight down North Avenue or the Eisenhower Expressway, whichever suits you better, to Mannheim.

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EXCERPT OF TESTIMONY FROM CROSS EXAMINATION OF CHRISTOPHER CLEVELAND

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[p. 240] Q. And starting with counties, this district, of course, is all in Cook County, correct?

A. That's correct.

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[p. 253] Q And the political subdivisions that are split, the townships and places, that is specifically because of the western connector, correct, the places and the townships?

A Yes, limited to those two categories of split political subdivisions, yes. The townships and the counties were split primarily because of the western connector.

That's also largely because the district is primarily within the city of Chicago. The way the boundaries are drawn, were there townships within the area of the city of Chicago, were it villages, were it like some other place, it certainly would have split a lot of those, too.

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